IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

Crl.MC.No. 2586 of 2007()

[CRIME NO.145/2007 OF IDUKKI POLICE STATION]

PETITIONER: ACCUSED

VARGHESE @ KUTTICHAN,
S/O.JOSEPH, AGED 42 YEARS, RESIDING AT
KIZHAKKEL HOUSE, PERUMKALA KARA,
THADIYAMPADU P.O., IDUKKI VILLAGE.

BY ADV. SRI.S.RAJEEV

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM (CRIME NO.145 OF 2007 OF IDUKKI
POLICE STATION).

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2586 of 2007

Dated this the 16th day of August 2007

O R D E R

The petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. Investigation is complete. Final report has already been filed. Committal proceedings has been registered. The petitioner has received summons to appear before the learned Magistrate on 18/8/2007.

2. According to the learned counsel for the petitioner, the petitioner is absolutely innocent. He is not responsible for the investigating officers not arresting him during the pendency of the investigation. The petitioner has not received summons to appear and shall appear on 18/8/2007. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. The learned counsel for the petitioner rightly submits that the learned Magistrate is bound to consider the application in the light of the decision in Sukumari v. State of Kerala [2001(1) KLT 22].

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007